

Appendix D

Federal Laws Applicable to Invasive Species

*An Initial Survey of Aquatic Invasive Species Issues
in the Gulf of Mexico Region*

Invasive Species Focus Team
Gulf of Mexico Program

Version 4.0

Federal Laws Applicable to Nonindigenous Species

Arranged by date of enactment.

This appendix was excerpted from Corn et al. 1999.

Lacey Act (1900)

Originally enacted in 1900, the Lacey Act, as amended in 1998 (P.L. 97-79, 16 U.S.C. 3371 - 3378), makes it illegal to import, export, sell, receive, acquire, or purchase fish, wildlife, or plants taken, possessed, transported, or sold in violation of U.S. or tribal law. In addition, this Act makes it unlawful to engage in interstate or foreign commerce involving any fish, wildlife, or plant material taken, possessed, transported or sold in violation of state or foreign law. Specific provisions authorize the federal government to prescribe requirements and issue permits for importing of wild animals and birds under humane and healthful conditions. This law may be useful in regulating some instances of non-native species introduction, if only indirectly. For example, if a plant whose sale is illegal in one state is purchased in that state and then taken to another state, the purchaser/transporter may have violated the Act, since the federal Lacey Act can be triggered by violations of certain state laws combined with interstate transport. However, if the non-native plant is purchased in a state where its sale is allowed, and then simply brought into another state (e.g. as household effects), it is unclear whether the Lacey Act would apply, unless other federal law prohibited that act.

Plant Quarantine Act (1912)

The Plant Quarantine Act, originally enacted in 1912 (7 U.S.C. 15 1-164a, 167), gives the Animal and Plant Health Inspection Service (APHIS) the authority to regulate the importation and interstate movement of nursery stock and other plants that may carry harmful pests and diseases. Nursery stock is defined in part to include all field-grown florists' stock (trees, shrubs, vines, etc). The authority to regulate interstate movement is particularly important to the agency's ability to prevent or limit the spread of a harmful non-native species within or to a state or region of the U.S. All states have some type of domestic quarantine laws as well, but under the Plant Quarantine Act, federal quarantines preempt state quarantines in interstate commerce. History indicates that the success of domestic quarantines is highly variable. Under this Act and the Plant Pest Act, APHIS for 30 years has imposed quarantines intended to prevent the spread of imported fire ants, which can be harbored in the root balls of nursery plants or in sod and soil; however, this pest continues to expand its territory. On the other hand, the successful effort to prevent witchweed from spreading into Midwestern states is largely due to a quarantine on certain agricultural shipments out of North and South Carolina.

National Park Service Organic Act (1916)

The National Park Service Organic Act of 1916 promotes the eradication and control of nonindigenous species and prohibits most introductions in national parks.

Animal Damage Control Act (1931)

The Animal Damage Control Act, originally enacted in 1931 (7 U.S.C 426), is the primary statute under which APHIS operates its Wildlife Services program, known until 1997 as the Animal Damage Control program. The Act gives APHIS the authority to control wildlife damage on federal, state, or private land. Wildlife Services is involved in the protection from wildlife damage: (1) field crops, vegetables, fruits, nuts, horticultural crops, and commercial forests; (2) freshwater aquaculture ponds and marine species cultivation areas; (3) livestock on public and private range and in feedlots; (4) public and private buildings and facilities, such as houses, commercial properties, swimming pools, golf courses, reservoirs, levies, and landfills; (5) civilian and military aircraft (against collisions with birds); and (6) public health (against wildlife-borne diseases such as rabies and plague). Wildlife Services control methods include providing advice to individuals and municipal, state or federal agencies on a wide variety of preventive, non-lethal damage control methods. Control of predatory animals, native or non-native, is largely carried out by lethal means, including hunting, trapping, and poisoning.

Wildlife Services also has cooperative agreements with the U.S. Fish and Wildlife Service (USFWS), the National Park Service, and state natural resource agencies to help protect natural resources, including wildlife and threatened or endangered species, from loss of life, habitat, or food supply due to the activities of other species. Under the authority of the Act, APHIS addresses damage problems caused by such nonindigenous species as nutria, blackbirds, European starlings, and monk parakeets. In 1991, Congress passed P.L. 102-237, which, among other things, amended the Animal Damage Control Act specifically to add the brown tree snake to the list of animals that the Wildlife Services program is to monitor and control.

Federal Seed Act (1939)

The Federal Seed Act, originally enacted in 1939 (7 U.S.C. 1551 et seq.), requires accurate labeling and purity standards for seeds in commerce. Among other things, the Act prohibits the importation and movement of adulterated or misbranded seeds and imposes labeling requirements for seeds that fall within the purview of the Act. The Act also authorizes enforcement activities and rulemaking functions.

The law works in conjunction with the Federal Noxious Weed Act to authorize APHIS to regulate the importation of field crop, pasture and forage, or vegetable seed that may contain noxious weed seeds. Critics of the government's policies concerning noxious weeds maintain that inconsistencies between seeds listed for regulation under the two laws have allowed undesirable weeds to enter the country. Furthermore, they assert that the Federal Seed Act's exclusion of horticultural seeds has permitted weed seeds to be imported along with ornamental crop seeds for urban and suburban use.

Public Health Services Act (1944)

The Public Health Services Act of 1944 regulates the entry of living organisms that may carry or cause human diseases.

Organic Act (1944)

The Organic Act of 1944 (7 U.S.C. 147a, 148, 148a-148e) is the basis of APHIS's domestic detection, eradication, control, and prevention efforts with regard to plant pests. The Act operates in conjunction with other APHIS statutes, which regulate imports and control interstate movement. The Act authorizes the Secretary to act independently or in cooperation with states in order to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests.

Federal Insecticide, Fungicide, and Rodenticide Act (1947)

The Federal Insecticide, Fungicide, and Rodenticide Act of 1947 controls the movement of nonindigenous microbes into and through the U.S.

Importation of Certain Mollusks (1951)

This 1951 legislation provides for the inspection and treatment of goods entering the U.S. from areas infested with any terrestrial or freshwater mollusks to control entry of such organisms.

Department of Agriculture Organic Act (1956)

The Department of Agriculture Organic Act of 1956 authorizes APHIS to conduct an eradication program in countries adjacent to or near the U.S.

Federal Plant Pest Act (1957)

The Federal Plant Pest Act of 1957 (7 U.S.C. 150aa-150jj) prohibits the movement of plant pests from a foreign country into or through the U.S. unless authorized by the Secretary of Agriculture. The law gives APHIS broad authority to inspect, seize, quarantine, treat, destroy or dispose of imported plant and animal materials that are potentially harmful to U.S. agriculture, horticulture, forestry and, to a certain degree, natural resources. (FWS has some limited authority to prevent the introduction of fish and wildlife that could be potentially harmful to nonagricultural interests.) APHIS inspectors at U.S. international airports, seaports, and border stations conduct surveillance of travelers, baggage, and cargo entering the country. APHIS inspectors also inspect incoming international rail and truck freight and mail. In FY1997, APHIS reported that it intercepted 1.6 million plant materials and 295,000 meat and poultry products suspected of harboring potentially harmful pest and disease organisms; 63,000 insect pests and other types of pests also were intercepted.

In 1993, the Office of Technology Assessment (OTA) reported that "while APHIS has kept thousands of potential agricultural pests from becoming established, it has done little explicit analysis of risks to natural areas." The OTA also criticized APHIS for too readily accepting imports of unregulated items, for example, raw logs, wood packing and shipping materials, and containers and ships from known high-risk areas on the presumption of harmlessness. The first of these criticisms stems from APHIS's role as the protector primarily of U.S. agriculture: broader responsibility for protecting U.S. natural resources historically has not been part of the

agency's charter. While some authority over pests that are threats to other sectors of the economy might be inferred from APHIS's authorizing legislation, and used to expand its role in those areas, agency officials assert that rapidly expanding globalization of agricultural trade over the past decade has made it difficult for the agency to fulfill even its current responsibilities concerning agriculture within its budget (\$514 million in FY1999).

The second criticism relates to U.S. Department of Agriculture's (USDA) role as both a promoter and regulator of agriculture. When responding to new non-native pest and disease problems, APHIS and USDA officials weigh trade and economic considerations along with biological ones. This may result in less or slower action than those who suffer economic damage from those pests may desire.

National Environmental Policy Act (1970)

The National Environmental Policy Act of 1970 (NEPA) (P.L. 91-190, as amended; 42 U.S.C. 4321 et seq.) requires that federal government agencies consider the environmental effects of their actions. The primary mechanism to achieve this end is the preparation of environmental impact statements (EIS) for major federal actions affecting the environment. Agencies are expected not only to prepare EISs, but also to comment on the EISs prepared by other agencies.

This law could apply to some introductions of non-native species. If a federal action might affect the risk of introducing of non-native species, and thereby have a significant impact on the human environment, the associated EIS would have to address this possibility. The limitations of NEPA vis-a-vis its application to nonindigenous species include: (1) the limited applicability to actions without a federal nexus; (2) the inapplicability to completed federal actions, though these actions may have effects that continue into the present; (3) the limited utility if the possibility of introduction of non-native species is not foreseen; and (4) the inability of scientists to provide agency administrators with the information necessary for a full understanding of the risks or consequences of the introduction of most non-native species.

If NEPA is triggered, the opportunity for significant analysis of the proposed action via an EIS is great. The analysis may result in modification or abandonment of some actions or alternatives. However, because NEPA has been held to be essentially procedural, it does not, by itself, prevent the activity from going forward even if the risk of unfavorable environmental outcomes is high. Nonetheless, failure to consider the issue of non-native introduction could be grounds for requiring an agency to amend its EIS, thereby delaying the introduction and risk while the revision is prepared.

Endangered Species Act (1973)

The Endangered Species Act (ESA) (P.L. 93-205 as amended, 16 U.S.C. 1531-1543) focuses its attention on species that are rare, not those that are common to the point of being weeds or pests. However, the strong protections offered under the ESA for rare species may create some vehicle for regulation of nonindigenous species. For example, the threat to resident fish species

protected under ESA could be a major argument against the introduction or expansion of aquaculture for certain species.

ESA could provide protection in two ways. First, if the introduction were to be carried out by a federal agency or require licensing, financial support, permits, etc., from a federal agency, the agency involved would have to consult with USFWS or the National Marine Fisheries Service (NMFS) to determine whether the introduction (or action leading to introduction) would tend to jeopardize the continued existence of the listed species. If so, the introduction would usually be prevented or modified to reduce the risk. Second, if the action had no federal nexus, but its effects could result in a taking (as defined in the Act) of a listed species, the party carrying out the action would have to seek an incidental take permit from FWS or NMFS.

Questions of knowledge, intent, and causality affect whether penalties under the ESA are available. Therefore, as a practical matter, ESA is unlikely as an appropriate alternative for penalizing the introduction of non-natives because the persons responsible for introducing many non-native species may never be known and introduction is often inadvertent. For example, it is not known who introduced zebra mussels, and it is likely that their probable introduction via ballast water was unintentional. In addition, introductions may go unnoticed for a long time, compounding the difficulty in determining responsibility. For example, the introductions of the brown tree snake and Formosan termites went unnoticed for years after their arrival, though the brown tree snake is strongly suspected of being directly responsible for the extinction of several species. Consequently, enforcement actions in the usual sense are unlikely.

However, the policies of the ESA and the duty of federal agencies to ensure that federal actions will not jeopardize listed species may result in changes in certain practices and the tightening of regulation of potential pathways, e.g., greater regulation of ballast water practices or redesign requirements for aircraft cargo holds to reduce the chance of biological stowaways. Although there may be some circumstances in which the ESA will play a role, new laws more directly and better suited to the prevention of introductions may also be desirable.

Federal Noxious Weed Act (1974)

The Federal Noxious Weed Act of 1974 (P.L. 93-629, 7 U.S.C. 2801-2814) authorizes port-of-entry and follow-up activities (quarantine, treatment, disposal, control or eradication programs, etc.) by APHIS to restrict the introduction and spread of non-native noxious weeds. Under the Act, no person shall import or enter any noxious weed identified in regulation, into or through the U.S., or move any noxious weed interstate, unless done in accordance with regulations issued by the Secretary. The Act also authorizes permanent restrictions, after a hearing on the issue, and emergency regulations for temporary quarantines.

The law currently defines noxious weeds as "any living stage (including, but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the U.S., and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish and wildlife resources of the U.S. or the public health." On an annual basis, APHIS works actively with other federal, state, and private

organizations to detect and control a dozen or more invasive plants with several infestation sites in several states.

Some critics of APHIS's administration of the Act assert that the agency does not focus adequately on weeds that affect natural resources, although the Act's definition appears to allow such efforts. Also, the legislative history indicates that APHIS does not quarantine a noxious weed unless it is conducting a control or eradication program for that species.

Executive Order 11987 Exotic Organisms (1977)

Executive Order 11987, signed in 1977, restricts the introduction of exotic species into natural ecosystems under federal agency authority.

Cooperative Forestry Assistance Act (1978)

The Cooperative Forestry Assistance Act of 1978 authorizes the U.S. Forest Service to detect, identify, survey, and control forest pests.

Act to Prevent Pollution from Ships (1980) [Relevant to Ballast Water]

The Act to Prevent Pollution from Ships (APPS) (33 U.S.C. §§ 1901-1912, October 21, 1980, as amended 1987, 1989, 1990, 1991, 1993 and 1996), enforced by the U.S. Coast Guard (USCG), regulates pollution from ships, U.S. flag ships and vessels in U.S. waters. Various sections of the Act implement the corresponding MARPOL Annexes to which the U.S. is a party and apply to various vessels differently depending upon their location. For example, Section 3(c) which addresses shipboard solid waste control implements Annex V of MARPOL. Specifically, APPS and MARPOL address the prevention of pollution by oil, the control of pollution by noxious liquid substances in bulk, the prevention of pollution by harmful substances carried by sea in packaged forms/freight containers, portable tanks, or road and rail wagons, and the prevention of pollution by garbage from ships. Other annexes to which the U.S. is not a party include the prevention of pollution by sewage from ships and the control of emissions from ships. Other annexes being discussed look at anti-foulants and controls for ballast water and nonindigenous species.

Clean Water Act (1987) [Relevant to Ballast Water]

Total Maximum Discharge Loads

Under Section 303(d) of the Clean Water Act, States must develop Total Maximum Daily Loads (TMDL) for impaired waters. The California State Water Resources Control Water Board and the San Francisco Bay Regional Water Quality Control Board have listed waters of San Francisco Bay impaired by exotic species as a high priority for TMDL development. Existing regulations define a TMDL as a quantitative assessment of a water quality problem. The TMDL specifies the amount of a particular pollutant that may be present in a waterbody, allocates allowable pollutant loads among sources, and provides the basis for attaining or maintaining water quality standards. TMDLs are established for waterbody and pollutant combinations for waterbodies impaired by point sources, nonpoint sources, or a combination of both point and

nonpoint sources (40 CFR § 130). Once a TMDL has been developed, effluent limits established in National Pollutant Discharge Elimination System permits must be "consistent with the assumptions and requirements of any wasteload allocation for the discharge"(40 CFR § 122.44(d)(vii)(B)).

Uniform National Discharge Standards for Vessels of the Armed Forces

The U.S. EPA and the Department of Defense have published a proposed rule in the Federal Register, identifying discharges to be regulated under Section 312(n) of the Clean Water Act, Uniform National Discharge Standards for Vessels of the Armed Forces. The definition of “discharges incidental to the normal operation of a vessel” in Section 312 explicitly includes ballast water. In the proposed rule, ballast water discharges are identified as needing regulation because of the risk of transferring invasive species (40 CFR 1700 as proposed).

National Pollutant Discharge Elimination System (NPDES)

NPDES authority over discharges of aquatic nuisance species in ballast water is restricted by law and under current regulation. By regulation “any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower and galley sink wastes, or any other discharge incidental to normal operation of a vessel” does not require an NPDES permit (40 CFR 122.3). USEPA has not directly spoken to the definition of the term "discharge incidental to normal operation of a vessel" in the context of this regulation.

Agricultural Quarantine Enforcement Act (1989)

The Agricultural Quarantine Enforcement Act of 1989 prohibits the shipping of plants, fruits, and vegetables via first-class mail.

Food, Agriculture, Conservation, and Trade Act (1990)

The Food, Agriculture, Conservation, and Trade Act of 1990 establishes the Genetic Resources Program to collect, classify, preserve, and disseminate genetic material important to agriculture.

Great Lakes Fish and Wildlife Restoration Act (1990)

The Great Lakes Fish and Wildlife Restoration Act of 1990 controls the sea lamprey.

Toxic Substances Control Act (1990)

The Toxic Substances Control Act of 1990 enables the U.S. Environmental Protection Agency (USEPA) to regulate nonindigenous microbes.

Nonindigenous Aquatic Nuisance Prevention and Control Act (1990)

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) (Title I of P. No.101-646, 16 U.S.C. 4701 et seq.) established a federal program to prevent the introduction of, and to control the spread of, introduced aquatic nuisance species and the brown

tree snake. The USFWS, USCG, USEPA, U.S. Army Corps of Engineers (USACE), and the National Oceanic and Atmospheric Administration (NOAA) share responsibilities for the implementation of this effort, acting cooperatively as members of an Aquatic Nuisance Species Task Force to develop a program for protection, monitoring, control, and research. The Task Force conducts studies and reports to Congress: (1) to identify areas where ballast water exchange does not pose an environmental threat; (2) to assess whether aquatic nuisance species threaten the ecological characteristics and economic uses of U.S. waters other than the Great Lakes; (3) to determine the need for controls on vessels entering U.S. waters other than the Great Lakes; and (4) to identify and evaluate approaches for reducing the risk of adverse consequences associated with intentional introduction of aquatic organisms. This law has been criticized as inadequate due to the voluntary nature of some of its provisions.

Under NANPCA, state governors are authorized to submit: (1) comprehensive management plans to the Task Force for approval, which identify areas or activities for which technical and financial assistance is needed; and (2) public facility management plans to the Assistant Secretary of the Army (Civil Works) for approval identifying public facilities for which technical and financial assistance is needed. Grants are authorized to states for implementing approved management plans, with a maximum federal share of 75 percent of the cost of each comprehensive management plan and 50 percent of each public facility management plan.

This Act directs the USCG to issue regulations (33 CFR Part 151) to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels, setting civil and criminal penalties for violation of these regulations. The Act also encouraged the Secretary of Transportation, through the International Maritime Organization, to negotiate with foreign countries on the prevention and control of the unintentional introduction of aquatic nuisance species. In addition, the Act directed the USACE to: (1) develop a program of research and technology for the environmentally sound control of zebra mussels in and around public facilities; and (2) make available information on the control methods. The Corps responded by establishing a zebra mussel facility research program, including annual technical conferences and a publication series.

Alien Species Prevention and Enforcement Act (1992)

The Alien Species Prevention and Enforcement Act of 1992 (ASPEA) (P.L. 102-393, 39 U.S.C. 3015; 106 Stat. 1774) makes it illegal to ship certain categories of plants and animals through the mail. The prohibited species are: (1) those injurious animals whose movement is prohibited under 18 U.S.C. 42;32; (2) those plant pests whose movement is prohibited under the Federal Plant Pest Act (7 U.S.C. 150bb or 150cc); (3) those plants, articles, or plant matter whose importation or interstate shipment is prohibited under the Plant Quarantine Act (7 U.S.C. 151 et seq.); and (4) plants and animals whose shipment is prohibited under the Lacey Act (16 U.S.C. 3372).

ASPEA does not make any new categories of plants or animals illegal to ship, but rather makes it clear that the use of the U.S. mail is to be included among those forms of transport whose use is illegal for their shipment. ASPEA appears to do very little to prevent the introduction of non-native species especially if the sender is unaware of the inclusion of the

items to be shipped under the prohibitions of the above laws, short title is given for this law. It refers to importation or shipment of but ASPEA does appear to add one more law to the arsenal under which prosecutors might bring certain cases involving shipment of various species, including nonindigenous species, to court.

Wild Bird Conservation Act (1992)

The Wild Bird Conservation Act of 1992 (WBCA) (P.L. 102-440, 16 U.S.C. 4901 et seq.) does not focus on the prevention of invasions by non-native species, but rather on the conservation of birds caught in the wild in foreign countries and imported into this country. By regulating the importation of certain wild birds, the WBCA may reduce imports of nonindigenous parasites and diseases, which could affect wild populations of native birds. Prevention of invasions would therefore be a potential effect of the law, rather than its purpose. It also could reduce the chance that a wild bird species introduced into the U.S. could escape, breed, and increase to pest levels. Ten families of birds are specifically exempted from the provisions of the law, and could be imported subject only to other U.S. laws.

Hawaii Tropical Forest Recovery Act (1992)

The Hawaii Tropical Forest Recovery Act of 1992 (P.L. 102-574, 106 Stat. 4593, 16 U.S.C. 4502-4503) amended the International Forestry Cooperation Act to create a variety of measures to address the problems of the native forests of Hawaii. Since the introduction of such non-native species as pigs, goats, and mosquitoes has been a major threat to the integrity of native Hawaiian forest ecosystems, the Act has several features, which address these issues. The Secretary of Agriculture is authorized to develop a program to assist Hawaii and U.S. territories, through the Forest Service, to protect native species from non-native species, and to establish biological control agents for the non-natives. The Secretary must also develop plans for the Institute of Pacific Islands Forestry and the Hawaiian tropical forests, which must, among other things, provide for the study of biological control of non-native species.

In addition, the Act created a short-term task force of specified federal, state, and other individuals. Among their other responsibilities, the task force was to develop an action plan to "promote public awareness of the harm caused by introduced species" and develop recommendations on "the benefits of fencing or other management activities for the protection of Hawaii's native plants and animals from non-native species, including the identification and priorities for the areas where these activities are appropriate." The report has since served as the framework for Forest Service management and research budget requests in this area. There has been a modest increase in funds to support invasive species research and eradication efforts, as well as a specialist to oversee management activities on invasive species.

National Invasive Species Act (1996)

In 1996, the National Invasive Species Act (NISA) (P. No.104-332) amended NANPCA to mandate regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water and other vessel operations. It encouraged negotiations with foreign governments to develop and implement an international program for preventing the

introduction and spread of invasive species in ballast water. This Act required a USCG study and report to the Congress on the effectiveness of existing shoreside ballast water facilities used by crude oil tankers in the coastwise trade off Maska as well as studies of Lake Champlain, the Chesapeake Bay, San Francisco Bay, Honolulu Harbor, the Columbia River system, other estuaries of national significance, and other waters. It authorized funding for research on aquatic nuisance species prevention and control in the Chesapeake Bay, the Gulf of Mexico, the Pacific Coast, the Atlantic Coast, and the San Francisco Bay-Delta Estuary.

In addition, the Act required a ballast water management program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in U.S. waters. It modified: (1) the composition and research priorities of the Aquatic Nuisance Species Task Force and (2) zebra mussel demonstration program requirements. Research grants were required on environmentally sound methods for controlling the dispersal of aquatic nuisance species as well as specifically for preventing and reducing dispersal between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal. In addition, research was authorized on the prevention, monitoring, and control of aquatic nuisance species in Narragansett Bay, Rhode Island.

Finally, the Task Force was required to develop and implement a comprehensive program to control the brown tree snake in Guam and other areas where the species has spread outside of its historic range.

Executive Order 13112 Invasive Species (1999)

President Clinton signed Executive Order 13112 on Invasive Species (64 Fed. Reg. 6183, Feb. 8, 1999), on February 3, 1999, revoking President Carter's 1977 Executive Order 11987 on exotic species. The new Executive Order seeks to prevent the introduction of invasive species and provide for their control and minimize their impacts through better coordination of federal agency efforts under a National Invasive Species Management Plan to be developed by an interagency Invasive Species Council. The Order directs all federal agencies to address invasive species concerns as well as refrain from actions likely to increase invasive species problems. The Invasive Species Council, supported by an advisory committee, is also to develop recommendations for international cooperation, promote a network to document and monitor invasive species impacts, and encourage development of an information-sharing system on invasive species.

The Council is to complete the first edition of its National Plan by August 2000, and recommend goals and objectives for invasive species management, research need, and measures to minimize the risk of species introductions. This plan is to be updated biennially to report on progress toward achievement of recommended goals and objectives. The effectiveness of this Order is to be assessed at least once every five years, with a report to the Office of Management and Budget on whether the Order should be revised.

Some constituencies have expressed concern about how this Executive Order might affect their interests. Although rural agricultural groups have long been involved in the control of

invasive species, some elements of this constituency have criticized the Executive Order as an attempt to rule by decree and a threat to rural life and property. Environmental groups have given less attention to the Order than might be expected, given its potential impacts on biodiversity.